

Queen's Bench, Montreal.
HON. JUDGE WÜRTELE'S
Charge to the Grand Jury,

Friday, 1st September, 1893.

GENTLEMEN OF THE GRAND JURY :

The autumn term of the Court of Queen's Bench for the trial of criminal cases, or the autumn assizes for the district of Montreal, commenced today, and you have been summoned and impanelled as the grand jurors for the occasion.

Your chief duty will be to hear and weigh the evidence which will be laid before you in support of the bills of indictment to be preferred. If a majority, containing at least twelve of you, is of opinion that the evidence adduced justifies the accusation contained in a bill, you will find and return a true bill ; if, on the other hand, the majority agrees that the evidence is insufficient, you must return that there is no bill. If you should throw out a bill, you cannot reconsider it ; but a bill which was ignored at a previous term may be again preferred and considered by you.

The names of the witnesses to be examined in each case are endorsed on the bill of indictment, and they will be brought before you either by the crown prosecutor or by the clerk of the crown ; and no other witnesses can be examined, except upon the written order of the presiding judge.

Your foreman, or any of you who may at any moment be called upon to act in his place, will swear the witnesses,

and after the examination of each witness shall write his initials against his name on the bill.

The witnesses should be examined by your foreman or by any of you, but with your consent the examination may be conducted by the crown prosecutor or by the clerk of the crown ; and in fact, in practice, so as to expedite matters, they are generally examined by these officers. You must, nevertheless, be alone during your deliberations.

You will bring all bills on which you have agreed into the court and deliver them to the clerk of the crown, who will then and there publicly announce your finding.

Since the last term of this court, the Criminal Code of the Dominion has come into force, and, although the principles of our criminal law remain as they were, several changes in details and in procedure have been made. Two of these changes have a bearing on your proceedings. The first is that, whereas formerly in many cases you had jurisdiction only when the offence had been committed in the district, now under section 640 you have power to act, wherever in our province the offence may have been committed, if the accused is in custody or has been committed for trial in this district. The second change is that under section 641 bills can only be preferred when a preliminary inquiry has been made before a justice of the peace, or when a written consent for the preferring has been given by a judge of this court or by the attorney general. The right to go directly before you and prefer a bill, therefore, no longer exists, and you no longer have the power to make a presentment against any one upon your own knowledge or upon evidence given before you in the case of other persons.

Another and an important change in the criminal law is the abolition, by section 535, of the distinction between felony and misdemeanour. What were formerly comprised under these two classifications are now known under the denomination of "indictable offences," and proceedings

respecting them, whether formerly felonies or misdemeanours, are to be conducted in the same manner, except in a few cases for which special provision is made by the criminal code. Indictable offences are triable before this court, or by a judge of the Sessions or other magistrate, in the cases for which the law provides for a speedy or summary trial. All other transgressions of law are called simply "offences" and are punishable on summary conviction.

Changes have also been made in the law of evidence. The principal ones are that a husband or a wife may now testify in a case concerning the other, but they must not disclose communications made during their marriage, and that an accused person on his trial may give evidence on his own behalf.

A number of accusations will be submitted to you, but none of them appear to present circumstances which necessitate any special instructions. Should, however, you find any difficulties, or anything requiring explanation, I will be ready to give to you at all reasonable times in open court the information you may ask for.

Of course you have understood, from the oath which has just been administered to you, that you are bound to keep secret what passes while occupied in investigating and deliberating on the cases which will be submitted to you. This is required not only in the interest of the public, but also in your own; it will conduce to greater independence of action, which is in the public interest, and will secure each of you from animadversion and personal criticism, which is in your private interest. From motives of public policy, to secure immunity, no action can be brought against you for your findings.

Until you have been discharged from your office as grand jurors for the present term, you should avoid all communications on the subject of your duties, except with your fellow jurors, the crown prosecutor and the officers of the

court. It is an indictable offence, punishable by two years imprisonment, under section 154 of the criminal code, for any one to influence or to attempt to influence, by threats or bribes or other corrupt means, any juryman in his conduct as such, or for any juryman to accept a bribe or any corrupt consideration in connection with the exercise of his duties. If you should be approached by any one for the purpose of influencing your action, it will be your bounden duty to denounce him to the court, in order that he may be brought to punishment for having attempted to mislead justice.

Besides the duty which I have called your chief or principal one, you are charged with several other functions. From time to time the grand juries should visit the district court house and jail, and the asylums and institutions either supported by the provincial government or receiving grants from it, in order to ascertain their condition and report on the same to the court, for the information of the authorities. The registry offices, in the proper management of which the community is vitally interested, may also be reported upon for the same purpose.

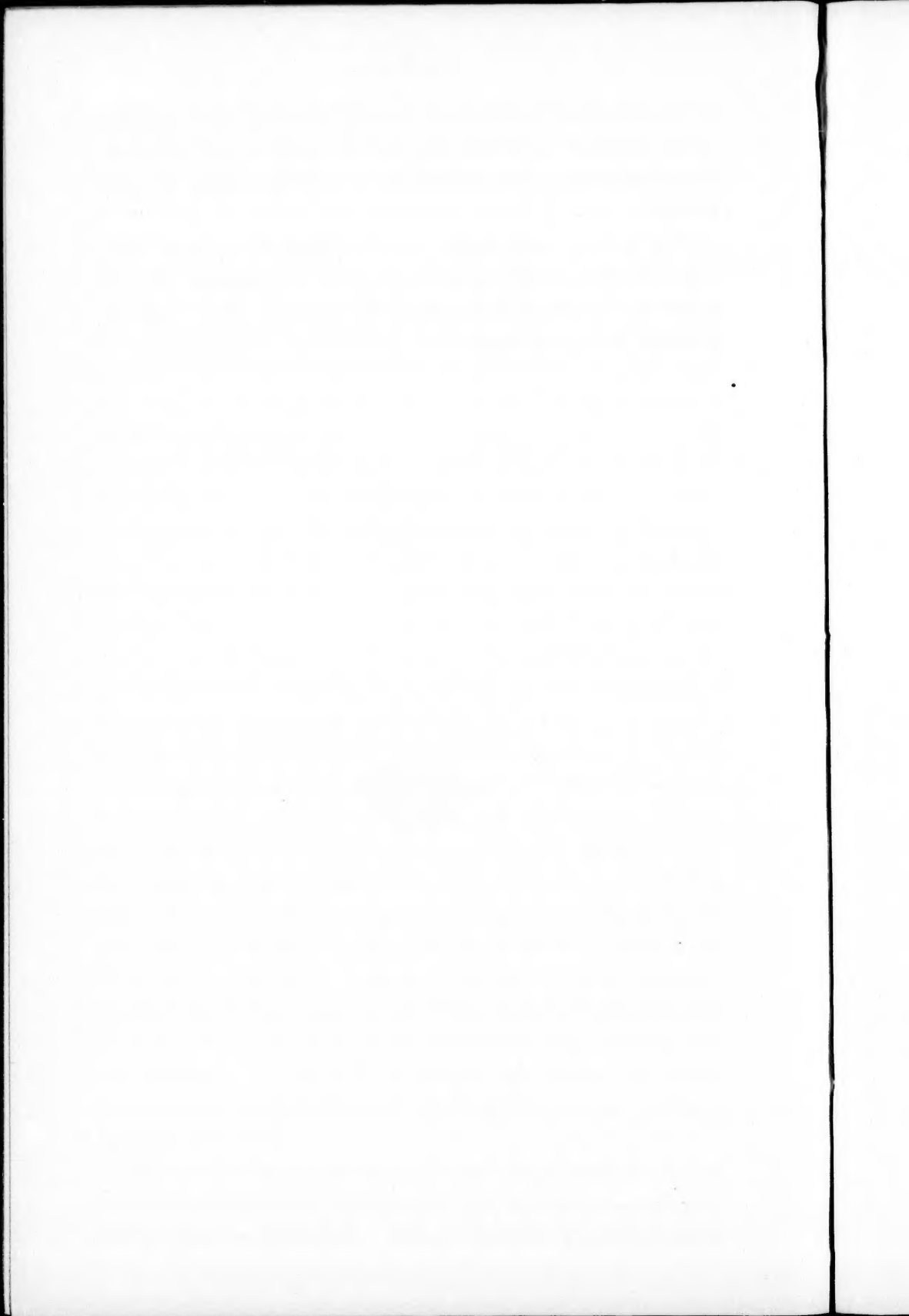
The present common jail has become insufficient, in consequence of the great increase in the population of our city and in fact of the district generally, to accommodate in a suitable manner the number of prisoners usually confined in it. Besides that, it is not suited to the ideas of our day. It would appear that the provincial government have in contemplation the erection either of an addition to the present building or of a new prison, such addition or new edifice to be built in accordance with modern requirements. A report from you on this subject in your presentment may strengthen its hands and may perhaps quicken its action.

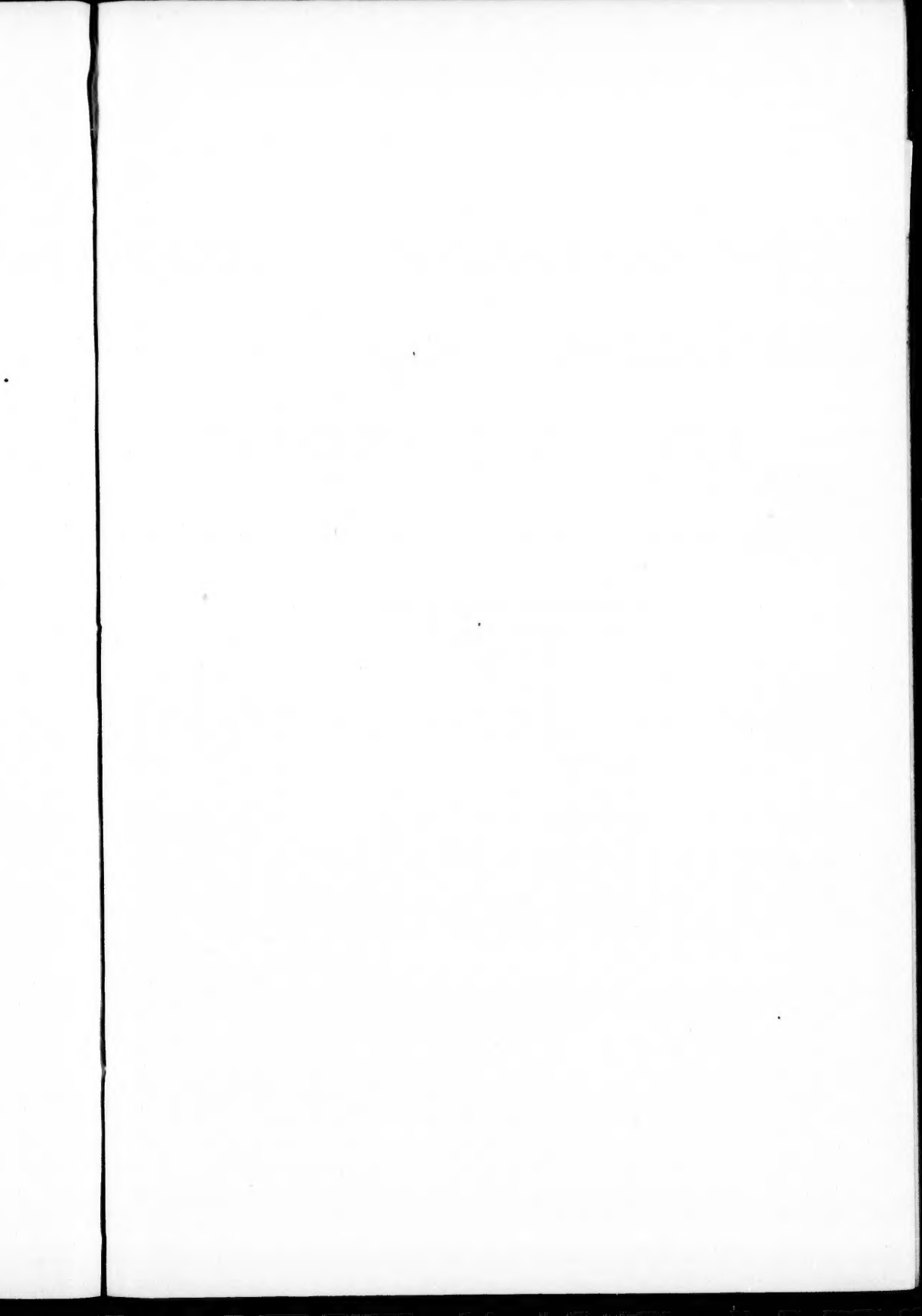
The work for the enlargement and improvement of the court house is progressing rapidly and it is to be hoped will before long be completed. When finished we will be able

to congratulate ourselves on having a roomy and commodious building, well adapted for its purpose and, what is most important, one containing a perfect system of ventilation.

The bills of indictment to be submitted to your consideration are ready, and I have now to request you to retire to the room assigned to the Grand Jury and to proceed with your work.







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